Why . . .

. . . Use Legal Project Management?

The business of every case, every legal matter is a project.

All projects are managed in some way, consciously or not.

Conscious management is better.
Brief #2

Why Would I Use Legal Project Management?

Prithee, be my PRESENT PARTNER in this BUSINESS.
“You come in here with a skull full of mush and you leave thinking like a lawyer.”

So intoned Professor Kingsfield, in the person of the late, great John Houseman (The Paper Chase).

What does it mean to think like a lawyer? Specifically, what does it mean to think like a lawyer not about the law, or its application, but about the mechanics of practice?

What should it mean?

Let’s start from three premises related to Legal Project Management:

- The practice of law is a business.
- A major business goal is making money for its stakeholders.
- Businesses make money by selling customers something those customers value.

There are lots of shadings, of course. Law can be a noble profession. Many-way partnerships have a very complex definition of “stakeholder.” The relationship with “customers” is considered collegial – so collegial we call them clients. Nonetheless, these premises lead to two realizations:

- Efficiency that boosts profit is important to a business.
- Customers/clients drive the business, not the other way ’round.

Effective Legal Project Management supports these realizations. As such, it starts and ends with the client/customer. Whether the client is someone within your organization (in-house) or you are outside counsel to a corporate client, these statements remain true.

In your practice, is “thinking like a lawyer” aligned with the customer? The Five Credos are the client-focused version of thinking like a lawyer.

Their business might be everything.
William Shakespeare, Twelfth Night
On the Line:  
“Ready! Fire! Aim. . . .”

If you’re a working “line attorney” in a busy practice, what’s your day like? Does any of this sound familiar?

- The client isn’t communicating well with you.
- When he does, he tries to micromanage your work.
- There’s pressure to bill or charge back, but the client – or the practice’s client manager – keeps writing off hours.
- You’re doing everything you can, but the client seems vaguely unsatisfied with the work, or the outcome.
- You end up with deadline pressure no matter how soon you start.
- You’re uncomfortable talking about the cost of the work, unsure how to discuss financial matters in the context of the substantive issues.

If you’re the client, is your life at all like this?

- You’re frustrated when the practice does work without consulting you.
- It’s not always work you’d have requested, yet you feel obligated – or pressured – to pay for it.
- Your input, especially into the deeper business issues behind the case, is ignored or not sought.
- You have shrinking budgets to live within and need fiscal certainty and predictability.
- You’re worried that you won’t get what you need on time.
- You’re uncomfortable talking about the cost of the work and unsure how to discuss financial matters in the context of the substantive issues.

Two different constituencies, different perspectives, yet similar issues.
ENTER LEGAL PROJECT MANAGEMENT

Legal Project Management isn’t just scheduling and organizing. Scheduling and organizing are part of Legal Project Management. However, at least as important is the way LPM can increase communication by providing a structure for necessary but often omitted or awkward conversations – not just cost, but the range of outcomes, the business value of the work, the difference between needs and wants. These conversations take place between practice and client, within the project team, even with third parties.

If you’re not communicating, you’re shooting in the dark. It’s pretty hard to hit the target you can’t see, especially if it’s a moving target.

To be successful, you have to take better aim at the issues you have in common, to shine a light on the systemic differences between client and practice, and to understand the divergence of goals across the team.

Ride upon the violent speed of fire; fly with false aim.
William Shakespeare, All’s Well That Ends Well
Why Legal Project Management?

Practices may recognize the need for Legal Project Management as they look to handle certain types of cases effectively.

WHY PROJECT MANAGEMENT?
How can a firm, say, feel confident about large fixed-fee cases without confidence in their ability to control costs on those cases?

Even if you look at past average costs for such cases, at a minimum there will be worry about a new case blowing up both the budget and the average. And if the deeper goal is to increase profits, settling for average won’t do; you need to aggressively control costs, respond to both expected and unexpected events, and do only the work that truly delivers value to the client.

The same holds for work taken on in-house, though instead of profit the goal may be to do as much quality work as possible on your limited budget. Again, you need to control costs and manage surprises.

For both you gain predictability – of costs, of delivery dates, of results.

Not only fixed-fee or limited-resource cases benefit from Legal Project Management. Consider any case where you want to accomplish one or more of these goals:

1. Control or better understand the cost.
2. Control or predict the time spent, both cumulative time (hours) and running time (start to finish).
3. Be better prepared for events, especially unplanned events.

Do This: Please accept as equivalent the terms attorney and lawyer, even though the U.S. and Canada have opposite semantic preferences.
4. Deliver only the work necessary to meet the client’s needs.
5. Engage the most appropriate resources to do the work best suited to them.
6. Improve communication on the team and with the client.

All the items on this list are goals of project management.

**WHY LEGAL PROJECT MANAGEMENT?**

In the first edition, I stated that for at least the near term, most legal projects will be led by legal rather than project-management professionals.

That statement remains true. While I have seen (and worked with in consulting situations) a small number of legal projects managed by project managers who’ve added Legal Project Management skills to their toolbox, most projects remain under the day-to-day project management of an attorney.

Legal Project Management is designed for lawyers rather than project managers, taking account of the constraints surrounding both the practice and the business of law.

Also, the output – the deliverable, or “product” – of a case is significantly different from the output of standard project management – a construction project or piece of software, say. The different output and different processes require notably different techniques.

Ignorant what to fear, forced me to seek delays.
William Shakespeare, *The Comedy of Errors*
Delivering Value: The Five Credos

The focal point of Legal Project Management is the delivery of value, not just legal services. While “value” in that sentence implies value to the client, Legal Project Management also increases value for the practice.

In a firm, that value comes in the form of clearer control over profits and an increased ability to deliver the non-routine work that clients are willing to pay highly for. Don’t forget that clients, no matter how much cost pressure they may be applying, need firms to be successful. They need to know that when they require specialized legal work, when there’s a lot at stake, you’ll be there to support them.

In house, that value comes from being able to deliver more and/or stronger legal services to the many corporate departments you serve. Government agencies in this case resemble the in-house scenario. If budgets are flat or down and yet demands continue to increase, only through a rigorous focus on value-added legal work can you meet your corporate obligations.

PAST PRACTICE
Recall that Legal Project Management is not about the law but how you work on cases. As such, it goes counter to much of what attorneys have – and haven’t – learned at law school and in the practice of law since getting that JD. We need new credos to replace today’s mantras:

1. I do whatever it takes for the client.
2. I do whatever the client asks (if it’s legal).
3. Partner profit is a function of one variable hours billed.
4. I went to law school to practice law (and/or make a bunch of money), so don’t give me that project-manager &@&c(!#!^.
5. I solve my client’s legal problems, not business problems.
The third is firm-specific, but the others apply to both firms, law departments, and agencies.

To some extent, clients have allowed these practices to take root and grow to full flower. If you don’t ask how much it costs or, better yet, tell the practice how much you think a matter is worth, then why shouldn’t they pursue every thread, check every possibility? If you negotiate only hourly rates or hourly in-house chargeback fees, then the conversation is solely about money, not efficacy.

Practices have been responding by doing the obvious things, from cutting minor costs internally to delaying the hire of newly minted law-school grads to mass layoffs. Few of these thrusts will drive long-term profitability and stability the way Legal Project Management can: minimize low-value, off-center, or non-germane work; maximize efficient delivery of business value to client and practice through high-quality legal services; and minimize the impact of unplanned events.

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Unquestioned matters of needful value.
William Shakespeare, Measure for Measure
Credo 1: Work for the Client

The Old Mantra: I do whatever it takes for the client.

The New Credo: I will ask the clients about their goal for this matter. I will ask what they and we need to do to be successful, and ask about what they would spend to achieve that goal. I will ensure that all work we do moves us closer to that goal. I’ll still do whatever it takes, but only on work that moves the ball toward the goal.

The client or corporation does not have a big pot of money into which the practice is entitled to dip. Rather, the client runs a business, a business with budgets and goals. Even individual clients have budgets and goals. Your job is to deliver value to the customer/client. Clients can no longer afford win-at-all-costs or exhaustive whatever-it-takes on every case.

THE VALUE EQUATION
Value is an equation:

\[
\text{Value} = \text{Benefit} - \text{Cost}
\]

Do This: Ask clients about their goals . . . and what they’re willing to spend to achieve those goals. Don’t do work disproportionate to client needs.
Increase value by adding pure benefit, removing cost, or adding benefit that outweighs the cost. In other words, value is not independent of cost.

Sometimes the potential benefits of legal work are so high that cost becomes a small factor, such as in “bet the company” litigation. You’ll know it when you’re in such a situation, but most attorneys go their entire career without working on a *Department of Justice vs. Microsoft* or *Ernst vs. Merck*.

If a client considers a matter worth $10,000, don’t spend $20,000 researching every last thread; it’s not law school anymore.

How do you know what the matter is worth to the client?

Ask!

Clients should tell you up front, but many don’t.

There is a certain squeamishness in talking money with lawyers (or doctors). Thus you, representing the practice, must take the lead and ask, “What do you expect to spend on this matter?”

If instead the client asks *you* for a budget, prepare a reasonable one; then work within that budget. Sometimes extraordinary circumstances may require a budget adjustment; it happens in real life. Be honest with clients, and let them decide.

**THE IN-HOUSE-COUNSEL VERSION**

Your business partners have budgets, whether or not you charge back. The GC certainly has a budget. Even if it’s only corporate internal accounting transfers, the impact on the client’s business is real.

Work for the client.

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*Attorneys to their client woes.*

William Shakespeare, *Richard III*
Credo 2: 
Own a Shared Goal

The Old Mantra: I do whatever the client asks. (I’ll figure out if it’s legal, first. Unfortunately, from time to time stories point out a few attorneys who forgot that part.)

The New Credo: I will partner with the client to ensure we see the same goal the same way. If the client asks for work that doesn’t support that goal, I will confer with the client before proceeding.

Projects often fail because of scope creep, an insidious expansion of the project’s sub-goals. If your kitchen is torn apart amidst a remodel, why not add Bluetooth-controlled LED track lighting? It would look nice, and this is the time to do it. And afterwards, you’ll wonder why it took longer and cost more than you expected. (Cool lights, though.)

In fact, most scope creep is less overt than the track lighting example. It’s an extra bit of research. It’s some new contract language “just in case.” One more attorney present at a deposition. Legal Project Management helps guard against the seemingly minor tasks that cumulatively blow up the budget or the deadline.

Legal Project Management works only in the presence of Credo 2.
If there’s lack of clarity about the goal, every action becomes a question. Sometimes you need a specialist at a deposition, perhaps, or a particular clause in a contract. But how do you know for sure unless the goal is clear?

Do This: Let the client know (gently) when she starts requesting work that’s out of scope. “Effective” usually includes “cost-effective.” Clients do care.
CLIENT CONFUSION AND OUTSIDE COUNSEL
Often a firm is engaged as outside counsel by a corporation’s law department, but it’s clear the work itself is for a particular (non-law) business inside the corporation. This situation is a recipe for either unhappiness or scope creep.

The way to prevent such scope creep is to ensure that your joint goals are clear to the firm, the law department, and the corporate business you’re serving.

When someone in that department asks for a particular service, compare it to the goal. If that service doesn’t appear to support the goal, confer with the client (business and/or law department). Confirm that it’s either a change in direction, with attendant consequences, or that you need to get back on the successful outcome track.

THE IN-HOUSE COUNSEL VERSION
Use the client’s annual goals and metrics, along with the matter’s shared goals, to stay “on task.”

In law departments that don’t charge back, the client may think of your work as “free.” People tend to consume excessive amounts of things they believe are free. This is one spot where it pays for the client to understand the practice’s goals as well as you understanding theirs.

Good counselors lack no clients.
William Shakespeare, Measure for Measure
Credo 3: Participate in Profitability

The Old Mantra: Profit is a function of one variable – hours.

The New Credo: I am part of a business. My goal as a participant in the business’s success is to increase profit by helping the business find new income and/or reducing costs of earning it. Efficiency matters more than hours.

CREDO 3 AT A FIRM

At many firms, partner profit depends on hours billed. Overhead is fixed; you pay for office space whether or not someone is doing profitable work within it. Each hour has costs but, by and large, represents money rolling in. The more hours, the more profit.

This model does not serve the client first, and thus is under siege.

In a business, profit is an equation:

\[ \text{Profit} = \text{Revenue} - \text{Cost} \]

Attorneys participate in the firm’s success – often as a current or future partner – by increasing profit. They find new income or reduce the costs of earning it.

Don’t Do That: Cost has as great an influence on profit as revenue. Low-value work often has costs that equal revenue . . . and thus doesn’t add to your profit.
Legal Project Management helps attorneys do both. Clearly, if project management keeps delivery within budget, then removing those blindsiding costs adds to profit. However, Legal Project Management also focuses on delivering client value. A client who receives unmistakable value from a firm will place more work with that firm . . . which leads to more revenue and more profit.

Some attorneys are resistant to Legal Project Management because they perceive additional I-didn’t-go-to-law-school-for-this focus on costs and budget. Most attorneys hope to make partner, whether in this firm or some future practice; help them understand that learning about “business stuff” now prepares them for the day when their own income will depend on that “business stuff.”

Every actor in show business understands their profession has the word “business” in it. Attorneys need to be in “law business.”

**CREDO 3 AT AN IN-HOUSE DEPARTMENT OR AGENCY**

Even when hours aren’t visible to internal clients, the business requires efficiency.

If you don’t charge back, the general counsel has a fixed budget for salaries and outside counsel; if you spend that money on client matter A, it’s not available for matter B.

And if you do charge back, you don’t need me to remind you of the cost pressure from clients.

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_Employed you where high profits might come home._

William Shakespeare, _Henry VIII_
Credo 4: Practice the Business of Law

The Old Mantra: I went to law school to practice law (and/or make a bunch of money), so don’t give me that project-manager &@&(!#1^.

The New Credo: The attorney shouldn’t become a project manager per se. However, practical project management techniques draw on and supplement what the attorney already knows. Legal Project Management helps the attorney easily incorporate these basic techniques into the practice of law.

Few attorneys would dispute that each case/matter is a project of sorts. There’s a start, an end (usually), and a result. The issue isn’t whether they want to manage these projects better; it’s how.

Not just how, but how much time. There is a legitimate fear of spending more time jumping through project-management hoops and processes than they will save in the work itself.

What little attorneys have seen or heard of project management can be a turn-off. Their interface with IT-led or PMO-led projects often touches the “bureaucracy” of those projects without any exposure to the benefits those teams – and the business – receive.

Don’t Do That: The last thing I want to do is turn great lawyers into mediocre project managers! Adding LPM skills doesn’t mean you stop being a lawyer!
THE IT PROJECT MANAGEMENT MODEL

According to a noted research team at the Standish Group, two-thirds of IT projects fail totally or in significant part. If attorneys see IT as the model, why would anyone be surprised that the shibboleth of project management raises attorney hackles?

If Legal Project Management makes the firm more profitable but the attorney’s job less fun, it will likely fail.

In a law practice, the assets go home at night. When they come in the next day, it may well be to a different practice that makes them happier.

Therefore Legal Project Management must at least be neutral in its effect on the job, but grudging acceptance isn’t the goal – especially since there is a cost of time and opportunity to learning the discipline. It must be seen as a boon, a benefit, a tool to increase efficiency while making the job itself more rewarding.

THE IN-HOUSE COUNSEL VERSION

Corporations generally have numerous process and project experts, from six-sigma champions to PMOs to continuous-improvement learning-organization specialists.

Applied properly, all of these can add value in the corporate setting.

However, be aware that they don’t map transparently to legal work. And when misapplied, they get everyone frustrated and angry – and fail to achieve either their own goals or those of the law department.

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This business will raise us all.
William Shakespeare, The Winter’s Tale
Credo 5: Clients Have Business Problems

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The Old Mantra: I solve my client’s legal problems, not their business problems.

The New Credo: My clients are businesses, and every problem is a business problem. I will use my legal skills to help the client strengthen the business, because that’s the client’s real goal, the true bottom line. I will remember that most clients not only are ethical themselves but understand that staying both legal and ethical is the best way to build a business and ensure long-term success.

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Brad Smith, general counsel at Microsoft, has a saying: “Don’t tell clients whether they can do something; tell them how to do it legally.” This is his way of getting in-house attorneys to partner with the business client, to help them solve their business problem.

(There are exceptions, though; it’s awkward to describe a client facing incarceration as having a “business problem.”)

Don’t Do That: Don’t treat “business” as a dirty word. Taking an interest in the client’s business doesn’t mean you’re turning into an MBA.
GETTING TO THE BUSINESS PROBLEM

Attorneys involved in negotiating business deals see the business-problem aspect of law more clearly. Negotiations have a variety of potential outcomes, and the task is to obtain the best possible outcome for the client. To do so, the negotiator must understand the client’s overall business goals.

Clients, trying to be helpful, often frame problems in a manner they think appropriate to their partner.

They’ll describe desired technology or functionality to IT, rather than helping IT understand the business issue. Likewise, they’ll frame a legal problem to an attorney; the attorney must understand the necessity of working back to the underlying business problem. Don’t take at face value a client trying to speak your language; learn the client’s language instead.

Consider: “I want to sue them.” Why? “They’re violating our patent.” What’s the impact? “We’re losing sales to them.” What do you want – their hide, or profit? “Profit, I suppose.” And so on . . . with the alternative of a licensing deal now on the table.

Frame the business problem as a long-term (strategic) rather than near-term (tactical) issue. The actions you take may be tactical, but successful businesses focus on how actions play out over time.

This credo is the same in-house as it is at a firm.

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Prithee, be my present partner in this business.
William Shakespeare, The Winter’s Tale
Why Would I Use Legal Project Management?

Checklist for Action
If your practice has these kinds of issues:

✓ Cost overruns (or fear of cost overruns).
✓ Pressure to lower the cost of legal services.
✓ Poor communication with the client, or client dissatisfaction.
✓ Feeling that you’re not in control of the case, or of the work surrounding the case (the “mechanics” of the case).
✓ Demands to improve profitability or do more with your budget.

Then you should:

✓ Learn more about Legal Project Management.
✓ Talk with colleagues who have implemented it effectively.
✓ Focus on the five credos.
Key Takeaways

- Legal Project Management can help you:
  - Control or better understand the cost.
  - Control or predict the time spent, both cumulative time (hours) and running time (start to finish).
  - Be better prepared for events, especially unplanned events.
  - Deliver only the work necessary to meet the client’s needs.
  - Use the most appropriate resources and do the work best suited to them.
  - Improve communication on the team and with the client.
- Legal Project Management is based on but is different from traditional project management.
- Use the five credos to drive the delivery of business value to the client via the provision of legal services:
  - Credo 1: Work only towards the client’s goal.
  - Credo 2: Partner with the client to understand the goal.
  - Credo 3: Participate not just in the work but in the profitability of the business.
  - Credo 4: Learn the techniques of Legal Project Management to more efficiently manage certain types of cases.
  - Credo 5: Use your legal skills in support of the client’s business problems.

Call in the letters patent that he hath by his attorneys.

William Shakespeare, Richard II